

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.22377 OF 1995

DATED:23.11.2006

BETWEEN:

G.Ganganna

... Petitioner.

And

The Vice-Chairman & Managing Director,
A.P.State Civil Supplies Corpn., Ltd., Hyderabad,

And others

... Respondents.

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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ORDER:

The petitioner, according to the averments in the affidavit filed in support of the writ petition, was appointed as Technical Assistant in Civil Supplies Corporation during the year 1976 and worked in the said post for five years. Later on he was deputed to work in Essential Commodities Corporation during the year 1981 for a period of one year. The petitioner subsequently was appointed as Liaison Officer in Essential Commodities Corporation on 25.7.1981 and his services were regularized with effect from 27.7.1981. In the year 1993 the State Government sanctioned five posts of Senior Officer Grade-II cadre in Civil Supplies Corporation. The Essential Commodities Corporation was merged with the Civil Supplies Corporation subsequently and in that connection, the Government issued G.O.Ms.No.61 Food and Civil Supplies Department dated 22.1.1994 prescribing staffing pattern and various other aspects relating to the seniority, promotion and certain other service conditions. Clause-II of the said G.O., prescribes that the inter se seniority of the staff of both the Corporations shall be based on the date of regularization in the existing or equivalent cadre. Respondents 2 to 5 were promoted to the post of Assistant Managers during the year 1982 and their services were also regularized from April 1982 only, while the petitioner was appointed as Assistant Manager and he reported for duty on 27.7.1981. The services of the

petitioner were regularized with effect from 27.7.1981. Respondents 2 and 3 were promoted to the post of Senior Officer Grade-II during the year 1989. Questioning their promotions, respondent No.4 filed W.P.No.15481 of 1989 and respondent No.5 filed W.P.No.4617 of 1991. The learned Single Judge of this Court allowed W.P.No.15481 of 1989 wherein the order promoting respondent No.2 is quashed and the first respondent Corporation was directed to finalise the seniority list of the Assistant Managers (Accounts/Audit) by taking the length of service of the petitioner therein into consideration and fix the seniority of the petitioner without following the principle of rotation and pass orders giving due promotion to the petitioner therein, in accordance with the observations made in the order, within two months from the date of receipt of the said order. Following the said judgment, W.P.No.4617 of 1991 filed by the respondent No.5 was also allowed by this Court on 19.4.1995 and similar directions as were given in W.P.No.15481 of 1989 were given. In compliance with the said two orders, the first respondent Corporation has issued two separate proceedings on 26.2.1995 promoting respondents 4 and 5 and appointing them as Senior Officer Grade-II in the supernumerary posts created with effect from 28.9.1989 (the date on which the respondents 2 and 3 were promoted).

The petitioner filed the present writ petition stating that while he was appointed as Manager on 25.7.1981 and his services were regularized with effect from 27.7.1981, the respondents 2 to 5 were appointed as Assistant Managers subsequently and their services were also regularized on subsequent dates, which is shown at page-3 of the material papers filed along with the writ petition. His grievance is that while promoting respondents 4 and 5 with retrospective effect, that is, from the date on which respondents 2 and 3 were promoted, following two judgments of this Court, the first respondent without any justification failed to follow the ratio of the said judgments in his case.

According to the petitioner though he was senior most among all the Assistant Managers including respondents 2 to 5, the benefit of seniority was not given to him and he was denied promotion while respondents 2 to 5, who are undisputedly the juniors to him, were promoted.

None of the respondents filed counter affidavits. This writ petition came up for hearing on many occasions. On 29.9.2006 a request was made on behalf of Sri D.Linga Rao, seeking time for instructions. On 3.11.2006, there was no representation for the first respondent Corporation. Even today none appeared for the first respondent.

From the material placed by the petitioner, it is clear that while the petitioner was appointed as Assistant Manager on 25.7.1981 through the proceedings No.APSECC/64/81, dated 25.7.1981 by the erstwhile Essential Commodities Corporation, the respondents 2 to 5, according to the comparative statement filed by the petitioner, were promoted as Assistant Managers subsequent to 25.7.1981. In the absence of the denial of the averments contained in the affidavit filed in support of the writ petition, I have no other alternative than to accept the submission of the petitioner that the respondents 2 to 5 were promoted as Assistant Managers subsequent to the date of the promotion and regularization of the petitioner as Assistant Manager.

In W.P.No.15481 of 1989, a learned Single Judge of this Court while rejecting the contention of the first respondent that on account of the rule of rotation, respondents 4 and 5 were denied promotions and that respondents 2 and 3 were promoted ahead of respondents 4 and 5 though they were juniors to respondents 4 and 5, held that in the absence of any rule providing for rotation, the usual rule of seniority based on the length of service should be followed. Accordingly, a direction, as mentioned herein above, was given to follow the inter se

seniority, without following the principle of rotation and then effect the promotions. Following the same, the first respondent has promoted respondents 3 and 4 with retrospective effect, i.e., the date on which respondents 2 and 3 were promoted. In doing so, I do not see any justification for the first respondent Corporation to ignore the petitioner for promotion. Evidently, as the petitioner has not filed the writ petition, his claims were ignored. But a reading of the judgment of this Court shows that the observations given therein are general in nature applicable to all the Assistant Managers as regards the finalisation of the seniority list. Following the ratio contained in the judgment in W.P.No.15481 of 1989, I have no hesitation to hold that the petitioner being senior to respondents 2 to 5 is entitled to promotion with effect from the date on which respondents 2 to 5 were promoted.

Sri T.P.Acharya, learned counsel has submitted across the bar that the petitioner has retired from service about six months back. In view of the subsequent event, the first respondent is directed to notionally promote the petitioner with effect from the dates on which respondents 2 to 5 were promoted and give the petitioner all the monetary benefits consequent on such promotion.

For the aforementioned reasons, the writ petition is allowed as indicated above.

23.11.2006.

mdaa.